FARAD CONTINUATION SHEET.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR.

CIVIL REVISION APPLICATION NO.134/2005

Smt. Shalini w/o Sumantrao Ridhorkar and others

...Versus...

Mr. Manohar s/o Sumantrao Ridhorkar and another

Office Notes, office Memoranda of Coram appearances, Court's orders or directions and Registrar's order.	Court's or Judge's order

CORAM: **B.P. DHARMADHIKARI, J.**
DATED : **12.12.2005.**

1. Heard Advocate Shri N.P. Dhote for revision applicants.

2. The grievance is that the objectors before the lower court in execution proceedings were not parties and a decree for possession was sought to be executed against them. Reliance has been placed on the

judgment of the Hon'ble Apex Court reported in 2000, Vol.10, S.C.C., 405. In the reported judgment it is seen that the person who obstructed to execution was not a party to the proceedings and she approached in appeal before the Hon'ble Apex Court. Controversy has been considered in that background.

3. In the present case, the husband of applicant no.1 and father of applicant nos.2 and 3 was already party as defendant before the lower court. The appeal against decree of trial court is reported to be pending. The contention of present applicants is that the property was a joint family property and as such they had independent right and share in it, and hence they raised objection in execution.

4. The controversy is correctly considered by the Court below while rejecting the

objection. No application for stay was moved in pending appeal and they had knowledge of civil suit. But they did not take steps to protect their interests either in suit or appeal. The present applicants are free to raise appropriate objection on this count in appeal which is pending. However, they cannot oppose the execution of decree as has been held by the lower court. No case is therefore made out for interference in C.R.A. C.R.A. is accordingly dismissed. No costs.

JUDGE

SSW